

## **REMARKS**

Receipt of the Office Action mailed October 11, 2007 in connection with the above-identified application is acknowledged. With the accompanying Petition for a Three-Month Extension of Time, this amendment is timely. Reconsideration and withdrawal of the outstanding rejections in view of the foregoing amendments and the following remarks is respectfully requested.

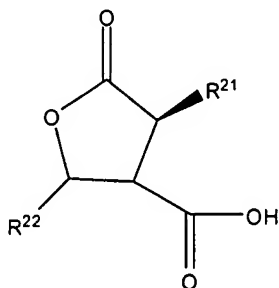
## **AMENDMENTS**

Claims 15-17, 20, 32 and 34 are pending and under consideration. Claims 1-14, 18-19, 22-31, 33, and 35-67 have been subjected to a restriction requirement and have been withdrawn from consideration. Claim 21 has been cancelled.

## **REJECTIONS**

### **Rejection over Asano**

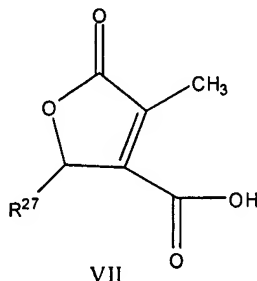
The Examiner has rejected claims 15-16, 20-21, 32 and 34 under 35 U.S.C. § 102(b) as allegedly being anticipated by Asano, et al., *Berichte der Deutschen Chemischen Gesellschaft* [Abteilung] B:Abhandlungen, 1939, Vol. 72B, pages 35-39 ("Asano"). Applicants traverse. Independent claim 15 recites chemical compounds having the following general structure:



Substituent R<sup>21</sup> is defined as comprising, inter alia, C<sub>2</sub>-C<sub>10</sub> alkyl groups. However, each

of the compounds from Asano cited by the Examiner contains a  $\text{-CH}_3$  group (i.e. a  $\text{C}_1$  alkyl group) in the position corresponding to the  $\text{R}^{21}$  group from claim 15. Therefore, Asano does anticipate claim 15, and this rejection must be withdrawn.<sup>1</sup> Similarly, the anticipation rejections of dependent claims 16 and 32, which each depend from claim 15, must also be withdrawn.

With respect to claim 20, it recites compounds having the following formula:



wherein  $\text{R}^{27} = \text{C}_{12}$  alkyl,  $\text{C}_{14}$  alkyl, or  $\text{C}_{16}\text{-C}_{20}$  alkyl. The compounds disclosed in Asano as cited by the Examiner have  $\text{C}_{13}$  and  $\text{C}_8$  alkyl groups in the position corresponding to  $\text{R}^{27}$  from claim 20. Therefore, the anticipation rejection of claim 20 (and dependent claims 21 and 34) should be withdrawn.<sup>2</sup>

### **Rejections over Drioli**

The Examiner has rejected claims 15-16, and 32 under 35 U.S.C. § 102(b) as allegedly being anticipated by Drioli, et al., *Journal of Organic Chemistry*, 1998, Vol. 63, pp. 2385-88 ("Drioli"). Applicants traverse. As was the case with Asano, the compounds disclosed by Drioli and cited by the Examiner have a  $\text{C}_1$ -alkyl group in the position corresponding to  $\text{R}^{21}$  in claim 15.

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<sup>1</sup> In addition, with respect to claim 32, which recites a pharmaceutical composition comprising a compound of claim 15 and a pharmaceutical diluent, the Examiner has not pointed to anything in Asano which recites the use a pharmaceutical diluent. This is another reason why the anticipation rejection of claim 32 over Asano should be withdrawn.

<sup>2</sup> As was the case with claim 32 the Examiner has not pointed to anything in Asano which recites the use a pharmaceutical diluent. This is another reason why the anticipation rejection of claim 34 over Asano should be

Since the definition of R<sup>21</sup> does not include C<sub>1</sub>-alkyl, applicants respectfully submit that the anticipation rejection of claim 15 and its dependent claims 16 and 32 must be withdrawn.

The Examiner has also rejected claims 20-21 and 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Drioli. The Examiner relies on a presumption that “compounds that differ only by the presence or absence of an extra methylene group or two are homologues” and that homologues are presumptively obvious over each other. However, claim 20 now recites that the alkyl group which corresponds to the C<sub>5</sub> alkyl group in the Drioli compound must be at least a C<sub>12</sub> alkyl group. Thus, the compounds of claim 20 differ from the Drioli compounds by significantly more than “one or two methylene groups.” Therefore, by the Examiner’s own reasoning, the compounds of claim 20 (and necessarily the pharmaceutical compositions of claim 34) would not have been obvious over the teachings of Drioli. Applicants, therefore, respectfully request reconsideration and withdrawal of this rejection.

#### **Rejections over Zhang**

The Examiner has rejected claims 15-16 and 32 under 35 U.S.C. § 102(b) as allegedly anticipated by Zhang et al., *Tetrahedron: Asymmetry*, 1996, Vol. 7, pp. 1923-28 (“Zhang”). Applicants respectfully traverse. As was the case with Drioli and Asano, the compound disclosed by Zhang has a C<sub>1</sub>-alkyl group in the position corresponding to R<sup>21</sup> in claim 15. This puts the compound outside the scope of claim 15. Accordingly, applicants respectfully request withdrawal of the anticipation rejection of claim 15 and dependent claims 16 and 32 over Zhang.

The Examiner has also rejected claims 20-21 and 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Zhang. For the reasons articulated above in connection with

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withdrawn.

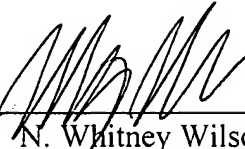
the obviousness rejection over Drioli, applicants respectfully submit that pending claims 20 and 34 would not have been obvious over Zhang.

#### CONCLUSION

In view of the foregoing amendments and remarks, applicants submit that the claims are now in condition for allowance, and earnestly solicit prompt notice to that effect. The Examiner is invited to telephone the undersigned with any questions or to resolve any remaining issues.

Respectfully submitted,

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